

REPORT

*Of the Committee on Military Affairs on the Georgia Militia Claims,
of 1792, 1793, and 1794.*

JANUARY 28, 1824.

Read, and committed to a committee of the whole House to-morrow.

The Committee on Military Affairs, to whom was referred the following resolution, to wit: "That the memorial of the Legislature of Georgia, relative to the claims of certain detachments of militia of that state, for services performed in the years 1792, 1793, and 1794, together with the accompanying documents, now on the files of this House, be referred to the Committee on Military Affairs, with leave to report by bill or otherwise," beg leave, very respectfully, to

REPORT:

That they have examined the documents on the files of this House, and carefully investigated the proceedings which have taken place in both branches of Congress in relation to these claims.

All the documents in connection with them, of value, which survived the destruction of the War Office, are to be found in the reports of the first session of the 17th Congress, volume 2d, which report was made to this House on the 26th of March, 1822. To this source of information they ask leave to refer, without republishing these documents, which are exhibited in a series occupying twenty-four pages of the volume in which they are contained.

In order, however, to understand the merits of the claims in question, a summary as brief as is in any degree consistent with perspicuity, is offered.

It appears, that the frontiers of the state of Georgia were either actually invaded, or threatened with invasion, by the Indians on its border, in the year 1792; that, on the 29th of October, of that year, the then Secretary of War, Gen. Knox, wrote to the Governor of Georgia, instructing him to take such measures for the defence thereof as might be in his power, and which the occasion might require.

On the 30th of May, 1793, the same officer communicates to the Governor what may be presumed to have been the views of the Pre-

sident, of the number and species of force, in addition to the regular troops under Col. Gaither, which he deemed necessary for the defence of Georgia, to wit: one hundred horse, and one hundred foot, which he authorizes the Governor to call out. "The case of serious invasion of Georgia by large bodies of Indians," he remarks, "must be referred to the provisions of the Constitution; but the proceeding with efficacy in future (the necessity of which appears but too probable) requires absolutely that no unnecessary expense should be incurred in the mean time."

On the 10th of June, 1793, the Secretary of War writes to the Governor of Georgia, to the following effect: "That the state of Georgia, being invaded, or in imminent danger thereof, the measures taken by your excellency may be considered as indispensable. You are the judge of the degree of danger, and of its duration, and will undoubtedly proportion the defence to exigencies. The President, however, expresses his confidence, that, as soon as the danger which has induced you to call out so large a body of troops, shall have subsided, you will reduce the troops to the number mentioned in my letter of the 30th ultimo;" which number, it will be recollected, was 100 horse, and 100 foot.

It would seem that the General Government, more effectually to carry into effect the defensive operations of Georgia, appointed Capt. Constant Freeman, Agent for the War Department, who was ordered in the performance of this duty, on the 19th of July, 1793: to whose report on these claims see document marked A.

Things remained in this situation until the 22d February, 1794. The correspondence gives us no account of the events of the war, or how imminent the peril might have been under which the Governor of Georgia was exercising a discretionary power in calling out troops. At this period, however, to wit, on the 22d February, 1794, the General Government appear to have learned, with much surprize, "that a body of militia had been kept up on the frontiers of Georgia, during a greater part of the last year, exceeding greatly the number which, according to the information received at the War Office, would seem to have been required by the state of things in that quarter. This number was represented to be from 1000 to 1200."

The Secretary of War goes on to remark, in this communication, "That the President will consent that one hundred horse, and one hundred foot, should be kept up at present, and during any considerable danger, on the condition that he (the Governor of Georgia) should, monthly, state to this office the reasons for the continuance of this force. It also appears, that no returns, at that time, had been made to the War Department, of the number of troops which had been kept in service during the year 1793. These defects were afterwards supplied, through the agency of Capt. Constant Freeman, who returned to the War Office muster rolls amounting to \$142,535 29, of which 13,159 63 appeared, at that time, to be due to such corps as had been *specially* authorized. The remaining sum, of \$129,375 66, for services which were not considered by the Execu-

tive of the United States, nor by the Agent of the War Department, as fully authorized by the General Government.

It is to be lamented that, in the conflagration of the War Office, in all probability, many of those documents have been destroyed, which might have served to elucidate all that is doubtful and perplexing in the history of these transactions; but it, at least, is a fair presumption, that the embarrassment incident to the early settlement of these claims resulted from the uncertainty whether, or not, by every fair and rational interpretation, the Governor of Georgia had not pushed his discretion to an unjustifiable extent. This inference is abundantly sustained by the few extracts which we have just quoted from that part of the correspondence copies of which are yet preserved. Nor is it impossible to believe that some objections might have been raised as to the character of the war; whether, at times, it was not so far offensive, or invasive, as to exonerate the United States from the charges incident to its prosecution, at least under such a combination of circumstances. This supposition seems not altogether destitute of foundation, from the anxiety with which the Secretary of War, in his letter to Capt. Constant Freeman, of the 5th September, 1793, instructs him "not to concur in any measures, at the expense of the United States, for invading the Creeks;" and is, indeed, corroborated by several papers in Captain Freeman's report.

But that the payment of these claims, although regularly before Congress from 1797, was resisted, and that, in 1803, the Committee on Claims made a report, on grounds which, if true, have cancelled them forever, are facts which the journals of your House abundantly prove.

The report of the Committee on Claims, thus referred to, is to be found subjoined to the report of the Committee on Military Affairs, (document 91) in the 2d volume of reports of committees for the first session 17th Congress.

It will be seen, that, in that report, the ground is distinctly taken, that, under the "agreement and cession" between the commissioners of the United States and Georgia, for the settlement of limits between the two sovereigns, concluded on the 24th April, 1802, these claims have been paid. The first article in the treaty is in the following terms, to wit:

"That, out of the nett proceeds of the lands thus ceded, which nett proceeds shall be estimated by deducting from the gross amount of sales the expenses incurred in surveying and incident to the sale, the United States shall pay, at their Treasury, one million two hundred and fifty thousand dollars," to Georgia, "*for the expenses incurred by said state, in relation to said territory.*" It will also be recollected, that a further consideration was stipulated by the United States for this cession from Georgia; that is, that they were to extinguish the Indian title to all lands within the present territorial limits of that state.

By reference to the then controversy in relation to the present subject, &c. between the state of Georgia and the U. States, (which fur-

nishes what may be called a contemporary construction of this article,) it is impossible to conceive that their claims were not expenses incident to this territory, and for which the United States might have been bound to reimburse Georgia, under the cession. During the war of the Revolution, Georgia must have been, of course, at considerable expense, in the defence of this territory, in common with the whole state; and the bounty in lands, which she afterwards gave to her officers and men, according to an extract furnished your committee by one of the members of her present delegation, from her statute book, must have been both patriotic and munificent. But the United States were surely not bound to make good to her all that she might have been disposed to have given to her soldiery for the common defence of her whole state. No expense would, in the view of your committee, seem more relative to the territory ceded than these identical claims, in the adjustment of which the United States had a direct interest.

It may, however, be said, that the Indian wars of 1792, 93, and 94, were not an expense which the state of Georgia was bound to incur; but, if the General Government believed that the present claims were, in any degree, *unauthorized*, by a fair construction, even of the discretion given to the Governor of Georgia, then it was competent for the commissioners of the United States to regard them as fairly chargeable to Georgia, and to adjust them in the manner supposed. Nor will the objection be entitled to any force, that these claims do not involve any expenses "incident to the territory," but are to be referred to the defence of the state of Georgia, in her integral capacity. That this territory was then a portion of her individual domain, and was the seat of the wars of 1792, 93, and 94, more or less, must be very obvious, by even a cursory view of the map of Georgia; nor could its defence be better secured than that such incidental expenses should have been incurred in "*relation to said territory.*"

It may, moreover, be insisted, that the present claims are not preferred by the state of Georgia, but by her citizens in their private and individual capacities; but, if the view be correct which your committee have taken, the payment of the United States, under the treaty of cession, necessarily fixes on the state of Georgia an ulterior responsibility to her citizens, as the United States would certainly not be bound to pay these demands in a two fold shape. But the state of Georgia, in her sovereign character, has presented these claims, (it is true in behalf of her citizens,) and she has now at the seat of Government an accredited agent, appointed by joint resolution of both branches of her Legislature.

It, perhaps, may not be unimportant to remark, that the only two favorable reports ever made to Congress on these claims, to wit: one by a select committee of this House, during the 2d session of the 14th Congress; and the other at the last session, by the Committee on Military Affairs of the Senate, no notice whatever is taken of the treaty of cession, or of the letter, subjoined to this report, of Mr. Lincoln, who was one of the commissioners on the part of the United States,

in that convention. The treaty of cession itself out of the way, with an equivalent abandonment of Mr. Lincoln's construction, and perhaps there would be no great difficulty at arriving at the conclusion adopted by those two committees.

It is certainly a painful circumstance to place in opposition the testimony of the distinguished individuals whose letters are hereunto annexed, all of whom are advantageously known by their private virtues and public services, and your committee were desirous of seeking, if possible, some explanation of this conflicting evidence by reference to Mr. Gallatin, who was one of the commissioners on the part of the United States. He was addressed by your committee, and his reply, marked D, is subjoined.

As the evidence now stands, it would seem that the commissioner on the part of the United States supposed that the United States, in undertaking to pay the state of Georgia one million two hundred and fifty thousand dollars, was discharging the militia claims of 1792, 93, and 94, whilst the reverse was the opinion entertained on the part of Mr. Baldwin and Mr. Jackson. Without intending to impeach, in the slightest degree, the veracity of the commissioners from Georgia, your committee think that a fair interpretation of the first article of the treaty sustains Mr. Lincoln in his construction.

They therefore unanimously recommend the adoption of the following resolution:

Resolved, That the state of Georgia has received an ample compensation for the services of her citizens, who were engaged in the Indian wars of 1792, 93, and 94, on her frontier, under the first article of the convention concluded between her and the United States, on the 24th April, 1802, and that, whatsoever may be the claims of her citizens, serving in those wars, they ought of right to be paid by the said state.

A.

Report on the unauthorized militia claims of the state of Georgia.

The hostility which had, for some time, existed between the Creek Indians and the frontier settlers of Georgia, had, in the year 1793, arisen to an alarming height. This induced the President of the United States to make extra provision for the defence of the frontiers, at the expense of the Union; arms and ammunition were sent to the Governor to be delivered to the militia(a.) An agent was appointed for the War Department to regulate the issues of public property to the troops, and to prevent or remedy any abuses(e.) This office was conferred on me. I left Philadelphia in July, and arrived at Savannah in August.

I took out with me money to pay several detachments of militia dragoons which had been employed in the year 1792, and until

February, 1793, under the authority of the United States. There were other large bodies of militia dragoons and infantry, which had been called into service by Governor Telfair, for whom I had not any money, nor had any appropriation been made for their pay. It was generally understood, that these were unauthorized by the President of the United States. The letter of the Secretary of War to Governor Telfair, dated the 30th May, 1793,(a) authorized him to call into service one hundred horse, one hundred foot, and two scouts, for every twelve miles of frontier, which, in addition to the regular troops, were supposed competent to defensive protection. However, the depredations of the Creeks induced the Governor to keep more than this number of militia in service, and the troops authorized by this letter, were not raised during the administration of Mr. Telfair. He had formed a plan of attacking the Creeks in their own country, for which he conceived himself authorized by the letters of the Secretary of War to himself, and to the Governor of South Carolina, dated the 10th of June, 1793,(b, c, and d.) The design was, however, dropt, in consequence of a letter from the War Department, dated the 19th July(e.) And I afterwards received positive instructions not to concur in any measures for the invasion of the Creeks(f.)

From one thousand to twelve hundred militia, were supposed to be in service this year,(1793,) but this could not be ascertained with any precision, as neither returns nor muster rolls were made(b, g, and h.) Part of this force was kept up on the frontiers in 1794. Governor Matthews designated which corps were to be the authorized horse and foot(i.) In the month of May, an addition was allowed to the infantry to garrison block houses, to be erected every twenty-five miles on the frontiers, (k.)

In February, 1794, the Secretary of War directed that muster and pay rolls should be collected for the service which had been performed by the militia, and transmitted to the War Office, that an estimate thereof might be submitted to Congress(h.) The paymaster of the militia was, in consequence, ordered to receive such rolls to the 31st March, 1794. This period was afterwards extended to the 10th May, for the upper counties, and to the 1st June, for the lower(l.) It is, therefore, to be understood, that all the militia services performed in Georgia in the years 1791, 1792, 1793, and to the periods before mentioned in 1794, (except by a troop of dragoons commanded by Captain Charles Williamson, which shall be hereafter noticed,) for which appropriations have not been already made, are termed *unauthorized*, either because they were not sanctioned by the President of the United States. or exceeded the numbers limited in the letters of the Secretary of War to the Governor of that state, dated the 30th May, 1793(a.)

In November, 1794, an estimate of the militia services, of the above description, accompanied with one set of the muster and pay rolls, was transmitted to the War Office,(l); the receipt of these was acknowledged by the Accountant, on the 10th December, 1794(m). As this estimate did not comprehend all the militia claims, other muster

and pay rolls were collected and transmitted on the 27th of February, 1796(*n*); the receipt of these were acknowledged by the Accountant on the 10th and 17th June(*o*); copies of these estimates are annexed, (No. 1 and 2). Two other estimates were delivered to the Accountant of the War Department, by myself, on the 13th February, 1799, of which copies are also annexed, (No. 3 and 4). These four estimates contain all the claims for unauthorized services which have been received either by the paymaster of the militia, or myself, to the 12th September, 1798.

When the Accountant received the first estimate, he required explanations relative to these militia claims, and afterward a certificate from the Governor, that the militia had been called into service for the defensive protection of the frontiers(*m* and *p*); this requisition I submitted to his Excellency, who made a statement of the militia services(*r*); I transmitted it to the Secretary of War, from whom I received a letter, which encouraged the hope that these claims would be admitted and paid(*s*); and other letters afterwards received from the Accountant confirmed this belief(*ss*). However, from the peculiar circumstances of the government at that time, the attention of the Secretary of War was wholly occupied upon other objects, and he left the Department before any decision could be made.

On the 8th of March, 1797, I accompanied the Hon. Mr. Baldwin, Member of Congress from Georgia, on a visit to the Secretary of War, to whom I explained the nature of these claims; it was then the intention of the Secretary to report thereon. On the 13th February, 1799, I again made a full and circumstantial report to the Accountant of that Department, who had requested from me this information, as it was proposed to submit the whole transaction to Congress.

It is proper to observe that the citizens of Georgia never thought the force authorized by the President of the United States adequate to the protection of the frontiers; as may be seen in the representations made from the Governors of that state to the Secretary of War. And the General Government have, from time to time, made appropriations for extra bodies for this service.

The periods within which these unauthorized claims are made, are particularly marked, in the history of that state, for misunderstandings between the Creeks and the frontier settlers. There were faults on both sides. The Indians were continually stealing horses, murdering, and doing other injuries to the inhabitants, who, in retaliation, made incursions into their country; such were the Oakmulgee expedition, under General Twiggs, in June, 1793(*r*), which consisted of about seven hundred and fifty, horse and foot. The destruction of the Oakfuskee village, by Colonel Melton, in September, who had under his command about eighty-eight officers and men. The detachment of one hundred and twenty-five men, who marched under the orders of Major Brenton, against the Little Chchaw village, on Flint river; and several others of less note, which were made by volunteer parties of militia(*t*). It has been supposed that these expe-

ditions have operated as objections to admitting the militia claims(p). Although these might have been irregular, it is certain, that some of the detachments, who were then in service, afforded great security to the peaceable inhabitants on the frontiers(v).

The militia have been induced to believe they should be paid, because the Executive of Georgia conceived himself authorized to call them into service. The seeming acquiescence of the President to this measure, expressed in the letter of the Secretary of War to the Governor, of the 10th June, 1793,(e) and the opinion of the head of the War Department, on their claims, in his letter to me, of the 6th August, 1795,(s) have confirmed them in this belief. But it has been so long since their claims have been submitted, that many have sold them upon speculation.

However, there were several officers, who, in the fullest confidence of being paid, became responsible to merchants in Savannah and Augusta, for clothing, and other necessities which they furnished to their men.* If their claims should be rejected, these gentlemen will be greatly embarrassed, as they will be compelled to pay the debts for which they have given security.

The four estimates annexed to this report contain the whole of the unauthorized claims which have come to my knowledge, or to the knowledge of the paymaster of the militia, except some rolls which were returned to be corrected, particularly for two detachments from Washington County, commanded by Captains Hampton and Shepherd, to whom their rolls were sent, in July, 1798. I have heard that there were some claims to be expected from the counties of Chatham, Effingham, Burke, Columbia, and Elbert; but none have ever been submitted for examination, except those which are noticed in the estimates.

In order to bring these claims into one view, I have annexed to the documents an abstract, (No. 5.) shewing the amount of the officers' pay, and of each estimate, with such explanatory notes as were deemed necessary. It appears, that the amount of the militia claims, is one hundred and twenty nine thousand three hundred and seventy five dollars and sixty six cents, and that they commenced in the year 1793, and do not extend beyond the periods to which they were restricted by the Governor.(l) The militia employed in 1795, and 1796, were such only as were authorized by the President of the United States, most of whom have been paid; upon the claims of those who have not, I shall make a special report.

It is to be understood, that the service performed by a troop of militia dragoons, some time in 1792 or 1793, under the command of Capt. Charles Williamson, is not to be classed with the unauthorized claims. He had been called into service under the same authority as Captains Feuche, Plinizy, and others, whom I paid in 1793. He was posted at Fort Mathews, on the Oconee; some difference took place between him and Col. Gaither, the commanding officer of the troops, in Georgia, who had him arrested and tried by a court martial. Col. Gaither would not certify nor authenticate his muster rolls, for which

* Captain Fouché, and others, who petitioned Congress in 1799.

reason they were never transmitted to the War Office; the troop remains to this day unpaid; Capt. Williamson is dead. I have made several applications for the roll of this troop, without effect; I cannot, therefore, state the amount of their claim.

The foregoing contains all the information which is in my power to communicate, upon the unauthorized militia claims of the state of Georgia.

CONSTANT FREEMAN, *Lieut. Col. Art.*

Late A. W. D. in Georgia.

Fort Johnson, S. Carolina, 25th October, 1802.

The foregoing is a true copy of the Report I made to the Secretary of War, on the unauthorized militia claims of the state of Georgia, on the 25th October, 1802.

CONSTANT FREEMAN.

City of Washington, 13th March, 1822.

ABSTRACT of the Estimates for Services performed by the Militia of Georgia, on the frontiers of said State, for which not any appropriations have been made by the U. States.

6

Estimates.	No. of the Rolls.	Officers whose pay is now added.	Amount of Officers' pay-
No. 1.	2 b	Lieut. Stewart, } pay and allowance, and risk for horse, inclu-	\$40 00
	2 c	Do. } ded	41 50
	3	Captain Milton, pay and horse risk	104 50
	4	Do. infantry	80 00
	5	Do. do.	20 00
	7	Captain Dougherty, cavalry	75 66
	11	Captain Rayburn, infantry	16 00
	12	Do. do.	10 66
	15	Captain Lawson	18 66
	18	Captain Whitefield	12 00
	19	Do.	12 00
	23	Captain Thomas	10 66
	36	Field and staff, 1793	500 00
	37	Field and staff, 1794	200 00
	45	Captain Brownson, cavalry	9 16
	53	Lieutenant Gardner, infantry	13 26
	55	Captain Brownson, infantry	28 00
	71	Captain Brown, cavalry	145 33
	73	Captain Dowson, cavalry	88 50
	74	Do. do.	156 33

[45]

No. 2.	84	Captain Coleman do.	-	-	-	-	-	29 03	76,812 49
		Total	-	-	-	-	-	1,611 55	
		Amount of the estimate	-	-	-	-	-	82,513 34	
								84,124 89	
		Deduct Captain Way's troop borne on Estimate No. 2; see the Roll, No. 62, of that Estimate	-	-	-	-	-	7,312 40	
	4	Lieutenant Crowley, infantry	-	-	-	-	-	24 20	
	6	One Captain, two Lieutenants, dragoons	-	-	-	-	-	54 39	
	8	One Captain, one Lieutenant do,	-	-	-	-	-	54 39	
	10	Lieutenant Middleton, infantry	-	-	-	-	-	24 26	
	15	Lieutenant Griffin, do.	-	-	-	-	-	24 26	
	17	Lieutenant Newson, do.	-	-	-	-	-	17 33	
	18	Ensign James, do.	-	-	-	-	-	18 66	
	19	Lieutenant Anthony, do.	-	-	-	-	-	23 40	
	21	Captain Neal, do.	-	-	-	-	-	8 00	
	22	Captain Thornton, do.	-	-	-	-	-	9 33	
	23	Captain Smith, do.	-	-	-	-	-	8 00	
	24	One Captain, one Lieutenant, infantry	-	-	-	-	-	13 20	
	27	Lieutenant Crowley, infantry	-	-	-	-	-	23 40	
	29	Ensign Gardner, do.	-	-	-	-	-	13 33	
	35	Lieutenant Newson, do.	-	-	-	-	-	17 33	
	37	Lieutenant Turner, do.	-	-	-	-	-	26 00	
	38	One Captain, one Lieutenant, dragoons	-	-	-	-	-	19 06	
	39	Captain Kingsborough, -	-	-	-	-	-	11 00	
	40	Captain Taylor -	-	-	-	-	-	9 16	
	45	Captain M'Dowell, infantry	-	-	-	-	-	13 33	

ABSTRACT—Continued.

12

Estimates.	No. of the Rolls.	Officers whose pay is now added.						Amount of Offi- cers' pay.	
No. 2.	47	One Captain, two Lieutenants, dragoons						\$ 518 15	and Lieut. } & Lieut.
	48	Captain Harrison, infantry						12 00	
	50	Do.	do.	-	-	-	106 66		
	54	Captain Carson, dragoons						97 00	
	55	Captain Harrison, infantry						173 33	
	56	Captain Carson, dragoons						94 00	
	58	Do.	do.	-	-	-	97 00		
	59	Lieutenant Whatley, dragoons						41 00	
	60	Do.	do.	-	-	-	13 66		
	61	Lieutenant Deamond, do.						2 73	
	Total						-	1,567 62	
	Amount of the estimate						-	23,576 53	
							25,144 15		
Deduct Captain Raine's troop, borne on the Estimate No. 3; see the Roll No. 41, of that Estimate						-	354 49		
No. 3.	2 a	Captain Carson cavalry						222 83	24,789 66
		Two Lieutenants, do.						232 72	
		One Cornet, do.						142 16	
		Four Sergeants, do.						492 00	

[45]

No. 4.		Sixty-eight privates, dragoons	-	-	-	-	6,273 00	
							7,362 71	
		Amount of the estimate	-				20,310 41	
	8	Ensign Armstrong, and nine men, infantry	-	-	-	-	37 60	27,673 12
	9	One Ensign, and two privates	-	-	-	-	22 53	
	10	One Ensign, and one private	-	-	-	-	16 10	
	11	One Lieutenant, and one private	-	-	-	-	24 16	
								100 39
		No. 1 to 7, inclusive; borne on the Estimate No. 2.						
		Amount of the four estimates,	-	-	-	-		129,375 66

The foregoing is a copy of the Abstract of the Estimates which were annexed to my Report to the Secretary of War, on the unauthorized militia claims of Georgia, 25th October, 1802.

CITY OF WASHINGTON, 13th March, 1822.

CONSTANT FREEMAN.

B.

COMMITTEE ROOM,

November 30, 1803.

SIR: The Georgia claim for militia services is now under the consideration of the Committee of Claims. I am directed by the Committee, to request your opinion as to the construction which ought to be given to the convention lately concluded between the United States and the state of Georgia; especially as it appears, you, sir, was one of the Commissioners on the part of the United States.

Does the clause, "as a consideration for the expenses incurred by the said state, in relation to the said territory," include an allowance for the defensive operations carried on by the Executive of that state, under the sanction of the general Government, in the years 1792, '93, '94?

Was it considered by the Commissioners, that the present claim was satisfied by that convention? What were the particular "expenses" referred to in the passage before recited?

Your answer to these queries, is respectfully desired.

I have the honor to be, sir,

Your obedient and very humble servant,

JOHN C. SMITH.

The Hon. LEVI LINCOLN,

Attorney General of the United States.

B.

December 3, 1803.

SIR: I had the honor of receiving your note of the 30th ultimo. Wishing to take time for the recollection of what depended on memory, my answer has been delayed.

Having no authority to determine whether the consideration for the expenses incurred by the state of Georgia, in relation to the ceded territory (as expressed in your first question) ought to be so construed as to include an allowance for the defensive operations carried on by the Executive of that state, under the sanction of the general Government, in the years 1792, '93, and '94; I can only, in compliance with the request of the honorable Committee of Claims, state to them my private ideas and recollections on the subject.

The expenses incurred by the state, for which the 1,250,000 dollars is to be paid as a consideration, appears to me to be a descrip-

tion so extensive, by the mere force of the terms, as to include every species of expense which had been previously incurred by the same state, having any relation to the ceded territory, exclusively, or to it, in common with what now constitutes that state. I know of no principle of construction which can so limit the description of expenses, expressed in the treaty of cession, as to exclude therefrom any which were then considered, by either party, as chargeable on the United States, for the past military defensive operations of Georgia. Although, in the sense of the convention, "said territory," means the ceded territory, as distinguished from the remaining territory of the state; yet, at the time of incurring the said expenses, both territories were considered as undivided parcels of an entire whole, and, of course, any defensive operations in one part, had a relation to the other, as included in the whole, and were, in fact, thus an expense for the defence of both.

Further, the 1,250,000 dollars is expressly for expenses incurred. If expenses to this amount had not been incurred at the time of making the cession, exclusively, on account of the ceded territory, the presumption is strong, that the allowance was not made merely in consequence of such expenses, but in consideration of those incurred on some common ground. Indeed, I have no recollection of any expenses, exclusively on account of the ceded territory having been stated by the Commissioners on the part of Georgia, while in treaty with them.

In reference to your other queries, "whether the Commissioners considered the present claims satisfied by the convention;" and "what," in fact, "were the particular expenses referred to" in the above construed passage, I can only state my own impressions. It is perfectly recollected, in the course of the negotiation with the Commissioners on the part of Georgia, at one or more of the interviews with them, they stated, as a reason why an allowance, to a certain amount, ought to be made them, out of the proceeds of the ceded territory; that their state then had a debt which had been incurred for military services in defence of the state, or of the ceded territory, and which the United States, on an application, had unreasonably refused to allow them. The reply was, that those expenses were incurred for the benefit of the state, and that some other states which had incurred similar expenses, had received for them no compensation from the general Government. I have not been able to recollect the precise words which either party made use of on this occasion, and, therefore, cannot now say, that my impressions were correct. I am, however, certain, that I had no knowledge of the expenses in question, until they were disclosed for the aforesaid purpose; nor have I any recollection of any other ones being insisted on, as reasons for the allowance. It is impossible for me to say what influenced the minds of the other Commissioners, or what weight the recited circumstance had, in conjunction with other considerations, in reconciling my own mind to the sum finally agreed on. The above is the

substance of my own reflections and recollections, in reference to the objects of your inquiries.

I have the honor to be, very respectfully,

Your and the Committee's ob't humble servant,

LEVI LINCOLN.

Hon. J. C. SMITH, Esq.

C.

We, the undersigned, two of the Commissioners appointed under and by virtue of powers from the state of Georgia, to treat and conclude on articles of cession with the Commissioners of the United States, appointed under an act, entitled "An act for an amicable settlement of limits with the state of Georgia, &c." and of the act, supplementary thereto, which articles of agreement and cession, between the two sovereignties, were concluded and signed on the twenty-fourth day of April, one thousand eight hundred and two, do hereby certify, that the claim of the militia of Georgia, for services under the United States, on which the Secretary of War has reported, and is now before the Committee of Claims of the House of Representatives, never was estimated by us, as any part of the consideration money for which the said cession was made, or included in any manner or shape whatever, in the same; and that it was out of our power to accede to such construction. The state we represented, and from which we derived all our authority, never having acknowledged the claim of the militia before mentioned, or any part thereof, as a debt she owed, but always considered it a debt of the United States; and the probability is, that, unless paid by the United States, the individuals will never receive a cent for their services or advances; and in which advances, many officers, on the certainty of being reimbursed by the United States, have nearly beggared their families.

JAMES JACKSON.

ABRAHAM BALDWIN.

Washington, December 12, 1803.

D.

WASHINGTON, 24th January, 1824.

SIR: I had the honor to receive to day, from Baltimore, the letter which you had been instructed by the Committee on Military Affairs to address to me.

If there was any correspondence between the Commissioners of the United States, and those of Georgia, in relation to the first article of the agreement for the cession of the western territory of that state

to the Union, it must have been deposited in the Department of State. I have no written memorandum on that subject; and, after a lapse of more than twenty years, I cannot, from mere general recollection, say, with any degree of certainty, whether the claims of Georgia, for militia services rendered in the years 1792 to 1794, were, or were not, intended to be embraced by the article above mentioned.

I have the honor to be, very respectfully,

Sir, your most obedient servant,

ALBERT GALLATIN.

The Hon. JAMES HAMILTON, JR.

Chairman of the Committee on Military Affairs.

